IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 21416 of 2004

Between:

A. Chandra Reddy, S/o Venkat Narsimha Reddy
Aged about 67 years, Occu: Business, R/o Kamareddy

Gudem Village, Devaruppala Mandal,
Warangal District.

..... PETITIONER

AND

1. The Chief Engineer (Electricity), O & M, Northern Power

Distribution Company Limited,
Warangal, Warangal District.
2. The Superintendent Engineer (Electricity),

Assessments, Northern Power Distribution Company

Limited,
Warangal, Warangal District.
3. The Divisional Engineer, Operation, Northern Power

Distribution Company Limited, Jangaon,
Warangal, Warangal District.
4. The Assistant Divisional Engineer, DPE-I,
Warangal, Warangal District.
5. The Chairman & Managing Director, A.P. Northern Power

Distribution Company Limited,
Warangal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in seeking to collect the balance amount of Rs. 1,13,012-00 and late payment charges by way of additional charges (interest) of Rs. 34,176.00 in pursuant to the assessment order dated 30-11-2001 under Order No. SE/A/WGL/C.WGL/TE/F-191/D.No. 1159/01 issued by the 2nd Respondent even before finalisation of Appeal filed by the Petitioner pending before the 1st Respondent and also declare the Order dated
5-10-2004 passed by the 5th Respondent under Lr.No. CMD/GM(Rev)/AAO/JAO-F-19/D.No. 6992/04 in demanding to pay
Rs. 1,13,012/- and Rs. 34,176.00 towards additional charges (late payment charges) for the said amount, as illegal and arbitrary and further direct the Respondents to adjust the amount collected from the Petitioner by way of additional charges for non payment of Rs. 1,13,012/- in pursuance of Order dated 30-11-2001 issued by the 2nd respondent in future bills.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondents 1 to 5: Mr. Kanakamedala Ravindra Kumar

The Court, at the stage of admission, made the following

ORDER:

The petitioner established a rice mill. On 20.04.2001, 4th respondent visited the rice mill and found pilferage of energy. An order of provisional assessment was made levying a sum of Rs.6,11,334/-. Ultimately, an order of final assessment was passed by the 2nd respondent on 30.11.2001, assessing the loss of energy at Rs.3,16,251/-.

The petitioner carried the matter in appeal to the 1st respondent and the same is said to be pending. In the meanwhile, 5th respondent issued proceedings, dated 05.10.2004, wherein the petitioner was required to pay a sum of Rs.1,47,188/-, representing the balance of the amount shown in the order of final assessment and additional charges being the interest accrued on that amount. The petitioner claims to have paid a sum of Rs.50,388/-, in pursuance of this demand, to avoid disconnection.

Learned counsel for the petitioner submits that when the appeal is pending before the 1st respondent against the order of final assessment, there was no justification for the 5th respondent to have issued the present order of demand, much less to levy interest.

Learned Standing Counsel for the respondents, on the other hand, submits that in the absence of any order of stay granted by the 1st respondent, it cannot be said that the impugned proceedings suffer from any infirmity.

It is not in dispute that the petitioner preferred an appeal, against the order of final assessment. Out of Rs.3,16,251/-, assessed as final liability of the petitioner, he has already paid a sum of Rs.2,03,978/-. The subject matter of the appeal is only the balance of the payment, namely, Rs.1,13,012/-. If the petitioner is required to pay the same, that too with interest, nothing remains to be decided in the appeal.

Hence, the writ petition is allowed and the letter, dated 05.10.2004, issued by the 5th respondent, is set aside. It is directed that the petitioner shall not be insisted on to pay the balance of the amount indicated in the order of final assessment, till the disposal of the appeal. An amount of Rs.50,388/- paid by the petitioner shall be adjusted towards the consumption charges in the meanwhile. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Date: 23rd November, 2004

Note: Furnish copy in two days.

(B/o.)

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To

1. The Chief Engineer (Electricity), O & M, Northern Power

Distribution Company Limited,
Warangal, Warangal District.
2. The Superintendent Engineer (Electricity),

Assessments, Northern Power Distribution Company

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Warangal, Warangal District.
3. The Divisional Engineer, Operation, Northern Power

Distribution Company Limited, Jangaon,
Warangal, Warangal District.
4. The Assistant Divisional Engineer, DPE-I,
Warangal, Warangal District.
5. The Chairman & Managing Director, A.P. Northern Power

Distribution Company Limited,
Warangal, Warangal District.

6. 2CD copies.